

HB 1263 -- MORTGAGE FORECLOSURE MEDIATION CODE

SPONSOR: McCann Beatty

This bill establishes the Mortgage Foreclosure Mediation Code that provides for mediation conferences between a lender and a homeowner for the purpose of facilitating a mutually beneficial alternative to foreclosure. The Office of Administration must contract with any person or entity to serve as a mediation coordinator on behalf of the state as specified in the bill.

A lender may seek a certificate of compliance, which would permit him or her to file a foreclosure deed. In order to receive a certificate, a lender must go through the mediation process described in the bill. The process begins with the lender sending a notice of right to request mediation to the homeowner and the mediation coordinator. A homeowner has 20 days from the date of the mailing of the notice to request mediation by sending the request form to the mediation coordinator. The responsibilities of the mediator in the process as well as the deadlines for required actions are specified in the bill.

In the event that a settlement is reached between the lender and homeowner prior to the mediation conference, a copy of the settlement agreement must be sent to the mediation coordinator, and the mediation coordinator must issue the lender a certificate of compliance within two business days.

In the event that a settlement agreement is reached during the mediation conference, the mediator must submit a copy of the settlement agreement to the mediation coordinator within one business day, and the mediation coordinator must issue the lender a certificate of compliance within two business days.

In the event that the parties fail to reach a settlement agreement during the mediation conference, the mediation coordinator must issue a certificate of compliance to the lender if the lender or representative of the lender:

- (1) Sent a notice of foreclosure and notice of right to request mediation to the homeowner;
- (2) Provided all the required necessary paperwork to the homeowner;
- (3) Had authority to negotiate and modify the loan in question and the ability to review and approve options for the homeowner's specific type of loan; and

(4) Paid all the required fees.

If a lender fails to comply with any of the provisions of the bill, the mediation coordinator must not issue a certificate of compliance to the lender.

A lender must file a valid certificate of compliance for the foreclosed residential property with the county assessor before or contemporaneously with the filing of any instrument of conveyance of title to the foreclosed property with the recorder of deeds. The recorder must not refuse to file any instrument for failure to comply with the requirement. Any person or entity that has violated these provisions must be assessed a fine of up to \$1,000. Any fine assessed against a lender must not be passed on to the homeowner.